

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

Page 1 of 2

**DOCKET NO.:** 2008-0324-MWD-E **TCEQ ID:** RN101513307 **CASE NO.:** 35438**RESPONDENT NAME:** Mamie Dell Baker dba Country Living Mobile Home Park

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input checked="" type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Country Living MHP, located one-quarter mile west of Loop 390 and half a mile north of U.S. Highway 80 West, Harrison County</p> <p><b>TYPE OF OPERATION:</b> Domestic wastewater treatment system</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> N</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on August 18, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b> <b>TCEQ Attorney/SEP Coordinator:</b> None <b>TCEQ Enforcement Coordinator:</b> Mr. J. Craig Fleming, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5806; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 <b>Respondent:</b> Ms. Mamie Dell Baker, Owner, Country Living Mobile Home Park, P. O. Box 418, Marshall, Texas 75671 <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> December 5, 2007 and February 25, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> February 12, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation and a record review.</p> <p><b>WATER</b></p> <p>1) Failure to maintain authorization for the discharge of wastewater. Specifically, the Respondent did not renew Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014467001, and is continuing to discharge from the Facility without authorization [30 TEX. ADMIN. CODE §§ 305.65 and 305.125(2), and TEX. WATER CODE § 26.121(a)].</p> <p>2) Failure to pay the outstanding Public Health Service Fee for the fiscal year 2008 for Financial Administration Account No. 91011638 [30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. WATER CODE § 5.702].</p>	<p><b>Total Assessed:</b> \$11,660</p> <p><b>Total Deferred:</b> \$2,332  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$263 (remaining \$9,065 due in 35 monthly payments of \$259 each)</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that on February 22, 2008, the Respondent submitted a permit application to discharge wastewater.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, pay all outstanding fees, including any associated penalties and interest;</p> <p>b. Until such time that authorization to operate is obtained, or until 180 days after the effective date of this Agreed Order, whichever is earlier, comply with the permit limits in expired TPDES Permit No. WQ0014467001;</p> <p>c. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing; and</p> <p>d. Within 180 days after the effective date of this Agreed Order, submit written certification that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): STW TX0100188



## Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 29, 2008

TCEQ  
DATESAssigned  
PCW

18-Feb-2008

25-Feb-2008

Screening

22-Feb-2008

EPA Due

## RESPONDENT/FACILITY INFORMATION

Respondent Mamie Dell Baker dba Country Living Mobile Home Park  
 Reg. Ent. Ref. No. RN101513307  
 Facility/Site Region 5-Tyler

Major/Minor Source Minor

## CASE INFORMATION

Enf./Case ID No. 35438  
 Docket No. 2008-0324-MWD-E  
 Media Program(s) Water Quality  
 Multi-Media  
 Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

No. of Violations 2  
 Order Type 1660  
 Enf. Coordinator J. Craig Fleming  
 EC's Team Enforcement Team 3

## Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$11,000

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 6% Enhancement Subtotals 2, 3, &amp; 7 \$660

Notes The penalty is enhanced due to three NOV's with nonsimilar violations.

Culpability No 0% Enhancement

Subtotal 4 \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction

Subtotal 5 \$0

Before NOV NOV to EDPRP/Settlement Offer  
 Extraordinary  
 Ordinary  
 N/A X (mark with x)

Notes The Respondent does not meet the good faith criteria.

Total EB Amounts \$1,122  
 Approx. Cost of Compliance \$10,000  
 0% Enhancement\*  
 \*Capped at the Total EB \$ Amount

Subtotal 6 \$0

SUM OF SUBTOTALS 1-7

Final Subtotal \$11,660

OTHER FACTORS AS JUSTICE MAY REQUIRE

0%

Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$11,660

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$11,660

DEFERRAL

20%

Reduction

Adjustment -\$2,332

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$9,328

Screening Date 22-Feb-2008

Docket No. 2008-0324-MWD-E

PCW

Respondent Mamie Dell Baker dba Country Living Mobile Home Park

Policy Revision 2 (September 2002)

Case ID No. 35438

PCW Revision January 29, 2006

Reg. Ent. Reference No. RN101513307

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

## Compliance History Worksheet

&gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component Number of...

Enter Number Here Adjust.

NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 6%

&gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

&gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

&gt;&gt; Compliance History Summary

Compliance  
History  
Notes

The penalty is enhanced due to three NOVs with nonsimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 6%

**Screening Date** 22-Feb-2008 **Docket No.** 2008-0324-MWD-E **PCW**  
**Respondent** Mamie Dell Baker dba Country Living Mobile Home Park *Policy Revision 2 (September 2002)*  
**Case ID No.** 35438 *PCW Revision January 29, 2008*

**Reg. Ent. Reference No.** RN101513307

**Media [Statute]** Water Quality

**Enf. Coordinator** J. Craig Fleming

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code §§ 305.65 and 305.125(2), and Tex. Water Code § 26.121(a)

**Violation Description**

Failed to maintain authorization for the discharge of wastewater. Specifically, the Respondent did not renew Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014467001, and is continuing to discharge from the Facility without authorization.

**Base Penalty** \$10,000

### >> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

### >> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%

Matrix Notes

100% of the rule requirement was not met.

**Adjustment** \$9,000

\$1,000

### Violation Events

**Number of Violation Events** 11 **328** **Number of violation days**

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

**Violation Base Penalty** \$11,000

Eleven monthly events are recommended from the date the TPDES permit expired on April 1, 2007 to the screening date of February 22, 2008.

### Economic Benefit (EB) for this violation

### Statutory Limit Test

**Estimated EB Amount** \$1,122

**Violation Final Penalty Total** \$11,660

**This violation Final Assessed Penalty (adjusted for limits)** \$11,660

**Economic Benefit Worksheet****Respondent** Mamie Dell Baker dba Country Living Mobile Home Park**Case ID No.** 35438**Reg. Ent. Reference No.** RN101513307**Media** Water Quality**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item/Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$10,000	1-Apr-2007	28-Jun-2009	2.2	\$1,122	n/a	\$1,122
Other (as needed)				0.0	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated cost to prepare and submit a new permit application to obtain authorization to discharge wastewater. The Date Required is the date the previous permit expired. The Final Date is the expected date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs**

NA

**Approx. Cost of Compliance**

\$10,000

**TOTAL**

\$1,122

Screening Date 22-Feb-2008

Docket No. 2008-0324-MWD-E

PCW

Respondent Mamie Dell Baker dba Country Living Mobile Home Park

Policy Revision 2 (September 2002)

Case ID No. 35438

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN101513307

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.51(a)(3), and Tex. Water Code § 5.702

Violation Description

Failed to pay the outstanding Public Health Service Fee for fiscal year 2008 for Financial Administration Account No. 91011638.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

N/A

Adjustment \$10,000

\$0

## Violation Events

Number of Violation Events

Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$0

No administrative penalty is recommended because the penalty and interest will be assessed at the next billing.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

**Economic Benefit Worksheet****Respondent** Mamie Dell Baker dba Country Living Mobile Home Park**Case ID No.** 35438**Reg. Ent. Reference No.** RN101513307**Media** Water Quality**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

N/A

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

N/A

Approx. Cost of Compliance

\$0

TOTAL

\$0



# Compliance History

Customer/Respondent/Owner-Operator:	CN600789887	BAKER, MAMIE DELL	Classification: AVERAGE	Rating: 5.38
Regulated Entity:	RN101513307	COUNTRY LIVING MHP	Classification: AVERAGE	Site Rating: 5.38
ID Number(s):	WASTEWATER	PERMIT	TPDES0100188	
	WASTEWATER	EPA ID	TX0100188	
	WASTEWATER	PERMIT	WQ0014467001	
	WASTEWATER	PERMIT	TX0100188	
Location:	Located one-quarter mile west of Loop 390 and half a mile north of U.S. Highway 80 West in Harrison County, Texas		Rating Date: 9/1/2007 Repeat Violator: NO	
TCEQ Region:	REGION 05 - TYLER			
Date Compliance History Prepared:	February 20, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	February 20, 2003 to February 20, 2008			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	J. Craig Fleming		Phone:	(512) 239-5806

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period?
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

## Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A

B. Any criminal convictions of the state of Texas and the federal government.  
N/A

C. Chronic excessive emissions events.  
N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 11/29/2004 (337887)
- 2 07/18/2005 (399994)
- 3 01/17/2006 (497020)
- 4 04/26/2006 (437634)
- 5 06/06/2006 (481265)
- 6 10/04/2006 (513072)
- 7 01/08/2007 (532740)
- 8 11/07/2007 (597719)
- 9 02/11/2008 (609756)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 01/06/2005 (337887)

Self Report? NO

Classifica Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
30 TAC Chapter 317 317.4(g)

Description: The sludge return lines and air manifold need to be replaced.

Date: 01/17/2006 (497020)

Self Report? NO

Classifica Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description:	30 TAC Chapter 305, SubChapter F 305.125(17)	
Self Report?	NO	Classifica Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	..
	30 TAC Chapter 305, SubChapter F 305.125(17)	
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	
Self Report?	NO	Classifica Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	..
	30 TAC Chapter 305, SubChapter F 305.125(17)	
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	
Self Report?	NO	Classifica Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	..
	30 TAC Chapter 305, SubChapter F 305.125(17)	
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	
Self Report?	NO	Classifica Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	..
	30 TAC Chapter 305, SubChapter F 305.125(17)	
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	
Self Report?	NO	Classifica Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	..
	30 TAC Chapter 305, SubChapter F 305.125(17)	
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	
Self Report?	NO	Classifica Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	..
	30 TAC Chapter 305, SubChapter F 305.125(17)	
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	
Self Report?	NO	Classifica Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	..
	30 TAC Chapter 305, SubChapter F 305.125(17)	
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	
Self Report?	NO	Classifica Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	..
	30 TAC Chapter 305, SubChapter F 305.125(17)	
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	
Self Report?	NO	Classifica Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	..
	30 TAC Chapter 305, SubChapter F 305.125(17)	
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	
Self Report?	NO	Classifica Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	..
	30 TAC Chapter 305, SubChapter F 305.125(17)	
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	
Self Report?	NO	Classifica Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	..
	30 TAC Chapter 305, SubChapter F 305.125(17)	
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	
Self Report?	NO	Classifica Moderate
Date	04/27/2006 (437634)	
Self Report?	NO	Classifica Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.7(c)	..
Description:	Failure to have laboratory effluent data for review.	
Self Report?	NO	Classifica Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.7(c)	..
Description:	Failure to submit discharge monitoring reports.	

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
MAMIE DELL BAKER DBA  
COUNTRY LIVING MOBILE HOME  
PARK  
RN101513307**

§ **BEFORE THE**  
§  
§  
§ **TEXAS COMMISSION ON**  
§  
§  
§ **ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2008-0324-MWD-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Mamie Dell Baker dba Country Living Mobile Home Park ("the Respondent") under the authority of TEX. WATER CODE chs. 5, 7, and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a domestic wastewater treatment system associated to a mobile home park located one-quarter mile west of Loop 390 and half a mile north of U.S. Highway 80 West in Harrison County, Texas (the "Facility").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about February 17, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.



6. An administrative penalty in the amount of Eleven Thousand Six Hundred Sixty Dollars (\$11,660) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred Sixty-Three Dollars (\$263) of the administrative penalty and Two Thousand Three Hundred Thirty-Two Dollars (\$2,332) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Nine Thousand Sixty-Five Dollars (\$9,065) of the administrative penalty shall be payable in 35 monthly payments of Two Hundred Fifty-Nine Dollars (\$259) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on February 22, 2008, the Respondent submitted a permit application to discharge wastewater.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner of the Facility, the Respondent is alleged to have:





1. Failed to maintain authorization for the discharge of wastewater, in violation of 30 TEX. ADMIN. CODE §§ 305.65 and 305.125(2), and TEX. WATER CODE § 26.121(a), as documented during an investigation conducted on December 5, 2007. Specifically, the Respondent did not renew Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014467001, and is continuing to discharge from the Facility without authorization.
2. Failed to pay the outstanding Public Health Service Fee for the fiscal year 2008 for Financial Administration Account No. 91011638, in violation of 30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. WATER CODE § 5.702, as documented during a record review conducted on February 25, 2008.

### **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

### **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Mamie Dell Baker dba Country Living Mobile Home Park, Docket No. 2008-0324-MWD-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, pay all outstanding fees, including any associated penalties and interest, with the notation "Mamie Dell Baker dba Country Living Mobile Home Park", TCEQ Financial Administration Account No. 91011638 to the address in Ordering Provision 1;
  - b. Until such time that authorization to operate is obtained, or until 180 days after the effective date of this Agreed Order, whichever is earlier, comply with the permit limits in expired TPDES Permit No. WQ0014467001;
  - c. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing; and



- d. Within 180 days after the effective date of this Agreed Order, submit written certification that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section Manager  
Tyler Regional Office  
Texas Commission on Environmental Quality  
2916 Teague Drive  
Tyler, Texas 75701-3756

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent



receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

John S. Miller  
\_\_\_\_\_  
For the Executive Director

8/29/2008  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Mamie Dell Baker  
\_\_\_\_\_  
Signature

6-4-08  
\_\_\_\_\_  
Date

MAMIE DELL BAKER  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Mamie Dell Baker dba Country Living  
Mobile Home Park

OWNER  
\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

